

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WILLIAM F. HESS,

Petitioner,

v.

JEAN HILL,

Respondent.

No. CV 05-226-ST

ORDER ADOPTING MAGISTRATE JUDGE'S
FINDINGS & RECOMMENDATION

MOSMAN, J.,

On October 16, 2006, Magistrate Judge Stewart issued Findings and Recommendation ("F&R") (#44) in the above-captioned case recommending that petitioner's Petition for Writ of Habeas Corpus (#1) be denied. Objections have been filed.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo*

or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R, the parties' objections and responses, and other relevant materials, the F&R is ADOPTED without modification.

IT IS SO ORDERED.

DATED this 4th day of January, 2007.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court